UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DAVID BLUMENKRANTZ, Plaintiff, - against - OXFORD UNIVERSITY PRESS, INC. and C. HURST & CO. LTD. Defendants.	Docket No. ________________ JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT

Plaintiff David Blumenkrantz ("Blumenkrantz" or "Plaintiff") by and through his undersigned counsel, as and for his Complaint against Defendants Oxford University Press, Inc. ("Oxford") and C. Hurst & Co. Ltd., ("Hurst" and together with Oxford "Defendants") hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants unauthorized reproduction and public display of a copyrighted photograph of an Eritrean flag-bearer, owned and registered by Blumenkrantz, a Los Angeles based professional photojournalist. Accordingly, Blumenkrantz seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq*.

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq*., and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants reside in and/or are doing business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Blumenkrantz is a professional photojournalist having a usual place of business at 9931 Lindley Avenue, Northridge, California, 91325. Blumenkrantz experience includes eight years living and working in Africa where he traveled extensively documenting issues related to relief and development, including urban poverty, street children, civil war, refugees, education and health and water development. His images have been widely exhibited, including a one-person show on refugee life at an All-Africa Conference of Churches event in Zimbabwe and a retrospective of his Africa work at the Watts Towers Art Center in Los Angeles.

6. Upon information and belief, Oxford is a corporation duly organized and existing under the laws of the State of Delaware, with a place of business at 198 Madison Ave #8, New York, New York 10016. Upon information and belief, Oxford is registered with the New York Department of State, Division of Corporations to do business in the State of New York. At all times material hereto, Oxford has owned and operated a website at the URL: http://global.oup.com (the "Oxford Website") and has published the book *Understanding Eritrea: Inside Africa's Most Repressive State*.

7. Upon information and belief, Hurst is a limited company with a place of business at 41 Great Russell Street, London, WC1B 3PL. At all times material hereto, Oxford has owned and operated a website at the URL: www.HurstPublishers.com (the "Hurst Website") and has published the book *Understanding Eritrea: Inside Africa's Most Repressive State*.

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

8. In 1992, Blumenkrantz photographed an Eritrean Flag-Bearer (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

9. Blumenkrantz is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

10. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-024-351.

B. Defendant's Infringing Activities

11. Upon information and belief, on or about October 2016, Hurst published a book entitled *Understanding Eritrea: Inside Africa's Most Repressive State* (the "Book"). The book garnered national positive reviews. The front cover of the book featured the Photograph. A true and correct copy of the book is attached hereto as Exhibit B.

12. Hurst placed the book for sale on the Hurst Website for 14.99 British Pounds. See Exhibit C.

13. Hurst did not license the Photograph from Plaintiff for the front cover of the book nor did Hurst have Plaintiff's permission or consent to publish the Photograph on the Hurst Website.

14. Upon information and belief, on or about March 1, 2017, Oxford published the book *Understanding Eritrea: Inside Africa's Most Repressive State* in the United States. The front cover of the book featured the Photograph. A true and correct copy of the book is attached hereto as Exhibit D.

15. Oxford placed the book for sale on the Oxford Website for $21.95. See Exhibit E.

16. Oxford did not license the Photograph from Plaintiff for the front cover of the book nor did Oxford have Plaintiff's permission or consent to publish the Photograph on the Oxford Website.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANTS)
(17 U.S.C. §§ 106, 501)

17. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-16 above.

18. Defendants infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Book. Defendants are not, and have never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

19. The acts of Defendants complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

20. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

21. As a direct and proximate cause of the infringement by the Defendants of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendants profits pursuant to 17 U.S.C. § 504(b) for the infringement.

22. Alternatively, Plaintiff is entitled to statutory damages up to $150,000 per work infringed for Defendants willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

23. Plaintiff further is entitled to his attorney's fees and full costs pursuant to 17 U.S.C. § 505.

24. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Oxford be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;

2. Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to $150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;

3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded his costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;

5. That Plaintiff be awarded pre-judgment interest; and

6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
March 27, 2017

LIEBOWITZ LAW FIRM, PLLC

By: /s/Richard Liebowitz
Richard P. Liebowitz
11 Sunrise Plaza, Suite 305
Valley Stream, NY 11580
Tel: (516) 233-1660
RL@LiebowitzLawFirm.com

Attorneys for Plaintiff David Blumenkrantz